IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

MACA.No. 492 of 2007()

OPMV.2291/1995 of II ADDL. M.A.C.T., KOZHIKODE
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APPELLANT/PETITIONER IN OP(MV)

SATHYANANDAN, S/O APPU, AGED 56 YEARS,
RESIDING AT KARUNTHALA HOUSE, KARAPARAMBA P.O.,
THADAMPATTUTHAZHAM, KOZHIKODE.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENTS: RESPONDENT IN OP(MV)
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1. **K.T.BALAKRISHNAN, S/O NARAYANAN NAIR,**
   AGED NOT KNOWN, RESIDING AT THACHARAKKAL HOUSE,
   MOORIKKARA P.O, KOZHIKODE.
   (OWNER OF THE MOPPED KL-11/B 8621)

2. **GOPI, S/O RAGHAVAN NAIR, AGED NOT KNOWN,**
   RESIDING AT MANATIL HOUSE, MAKKADA P.O.,
   CHERUKULAM, KOZHIKODE.
   (RIDER OF THE MOPPED KL-11/B 8621)

3. **M/S NATIONAL INSURANCE CO. LTD,**
   DIVISIONAL OFFICE, MANUAL SONS BUILDING,
   GH ROAD, KOZHIKODE.
   (INSURER OF THE MOPPED KL-11/B 8621)

4. **V.P.MANOMOHANAN, S/O RAMAPODUVAL,**
   KELOTH, PAYYANNOOR.

5. **M/S ORIENTAL INSURANCE CO. LTD.,**
   MARINA SHOPPING COMPLEX, THALIPARAMB, KANNUR.
   (INSURER OF THE CAR NO.KL-13/1 3584)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 30/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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M.A.C.A.. NO. 492 OF 2007

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Dated this the 30th day of March, 2007

J U D G M E N T

The claimant in O.P.(MV) No.2291 of 1995 on the file of the IInd Additional Motor Accidents Claims Tribunal, Kozhikode, is the appellant. The admitted case of the appellant was that he was a pillion rider in a Mopped bearing Reg. No.KL-11/B-8621. On 30.9.1994 at about 3.30 p.m. the vehicle met with an accident and the petitioner sustained injuries. Petitioner filed the aforesaid petition claiming a sum of Rs.1,00,000/- towards compensation from the insurer. The Tribunal after appreciating the evidence found that the petitioner-appellant had no consistent version regarding the manner in which the accident took place. The evidence of the petitioner was not sufficient to hold that the accident occurred due to the negligent driving of the Mopped by the driver. It was also found that at the time of the accident, petitioner had consumed alcohol. The evidence adduced as per Exhibit X1 was not accepted by the Tribunal on

the ground that it relates to some other accident. It was further held that even accepting the case of the petitioner, insurer is not liable to indemnify the loss sustained by the petitioner. For all these reasons, the petition was dismissed.

2. I do not find any illegality or impropriety in the order passed by the Tribunal. There is no merit in the appeal and the same is only to be dismissed.

Appeal is accordingly dismissed.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A. NO. OF

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J U D G M E N T

15TH MARCH, 2007